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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,109	11/30/2000	Kurt Schunke	SCHUNKE	6814

7590 07/30/2003

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EXAMINER

MCANULTY, TIMOTHY P

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,109

Applicant(s)

SCHUNKE ET AL.

Examiner

Timothy P McNulty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9 and 14.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore:

- a. a rod received in aligned bores in the wall of the housing as claimed in claim 6, and
- b. the crossbar connection to the rotary drive mechanism comprising a linkage system as claimed in claim 6

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if the crossbar as claimed in line 3 of claim 9 is the same crossbar as previously claimed in line 5 of claim 1 from which claim 9 ultimately depends or second crossbar different from the crossbar previously claimed in claim 1.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-4,6,7, and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Bathrick et al.

Bathrick et al. discloses in figures 1,2, and 4, a piece of furniture comprising a lifting mechanism 16 having a lifting arm 80,81,82,83 articulated to a footrest (not numbered) and a housing 46; a rotary drive mechanism 48,49 having an output member 60 fixed to and imparting rotational motion to a crossbar 50,51, said crossbar linked to said lifting arm and connected to said footrest; and stationary support means 14,15 connected to said housing via a bracket 71 including rods received in aligned bores in the wall of said housing.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 5 and 8-10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bathrick et al. in view of US Patent No. 5,730,494 to La Pointe et al. (LaPointe '494).

Regarding claim 5, Bathrick et al. discloses the basic apparatus as previously cited but does not disclose a fork head mounted to said housing. However, LaPointe '494 teaches in figures 2A and 3, a lifting mechanism for a piece of furniture comprising rotary drive mechanism and a housing 121 wherein a fork head 123 is mounted to said housing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the

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apparatus of Bathrick et al. in view of the teachings of LaPointe '494 to mount a fork head on said housing to more securely mount said housing to said stationary support.

Regarding claims 8-10, Bathrick et al. discloses the basic apparatus as previously cited but does not specifically disclose said output member having a polygonal bore wherein said crossbar extends through said bore. However, LaPointe '494 teaches in figures 8, 10A and in lines 15-26 of column 10, a polygonal shaped drive rod 15 fitted within a polygonal bore in a rotary drive member. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Bathrick et al. in view of LaPointe '494 to include a polygonal bore with said output member to receive therein said crossbar to reduce rotational slippage between said output member and said crossbar during rotation thereof.

8. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bathrick et al. in view of Godette.

Bathrick et al. discloses the basic apparatus as previously cited but does not disclose said rotary drive mechanism comprising resilient stops. However, Godette teaches in the abstract, an adjustment mechanism for a piece of furniture comprising a rotary drive mechanism including a bumper on a frame to provide a resilient stop for downward travel of a movable furniture component. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Bathrick et al. in view of the teachings of Godette to include a resilient stop mounted the lifting mechanism for reduce damage during downward travel of said footrest between said footrest and a frame.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bathrick et al. in view of Godette as applied to claim s 11 and 12 above and further in view of Suga.

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Bathrick et al. in view of Godette discloses the basic apparatus as previously cited and additionally Bathrick et al. further teaches in figure 4, said rotary drive mechanism comprising a power supply line but the reference combination does not disclose an override relay for discontinuing said rotary drive. However, Suga in column 1 teaches a system of using an overload switch to limit the operation range of an automatic radio antenna. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Bathrick et al. in view of the teachings of Suga to provide an overload relay so as to define operational range limits of the lifting mechanism and thus improve safety by discontinuing operation of said rotary drive mechanism when said range limits are reached.

Response to Arguments

10. Applicant's arguments, filed 06 June 2003, have been fully considered but are moot in view of the new grounds of rejections. Bathrick et al. clearly discloses a rotary drive mechanism directly imparting rotational motion to a crossbar wherein said crossbar is connected, as broadly claimed, to a movable footrest of a piece of furniture.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent is cited to further show the state of the art regarding adjusting mechanisms in general:

US Patent No. 5,927,144 to Koch

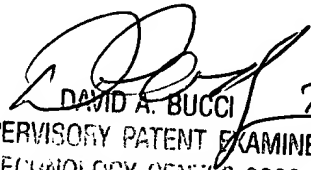
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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684.

The examiner can normally be reached on Monday-Friday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9326 for regular communications and 703.872.9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.


DAVID A. BUCCI 7/25/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

tpm 
July 24, 2003